MINUTES

BOARD OF TRUSTEES
PUBLIC EMPLOYEES' RETIREMENT FUND
143 West Market Street, Suite 500
Indianapolis, IN 46204

August 30, 1999

TRUSTEES PRESENT

Richard Doermer, Chair
Nancy Turner, Vice Chair
Dr. Teresa Ghilarducci
Steven Miller
Jonathan Birge

OTHERS PRESENT

Mike Gery, Executive Assistant to the Governor
Diana Hamilton, Special Liaison to the Governor for Public Finance
Mary Beth Braitman, Ice Miller Donadio & Ryan
Kris Ford, Wm. M. Mercer Investment Consulting
Pete Keliuotis, Wm. M. Mercer Investment Consulting
Stacy Scapino, Wm. M. Mercer Investment Consulting
Richard Boggs, Burnley Associates
Karen Franklin, National City Bank
Kathy Norris, Budget Agency
Matt Brase, Indiana Association of Cities & Towns
Jodie Woods, Indiana Association of Cities & Towns
Colleen Williamson, UAW/AFT Local 9212
Kenneth Berg, UAW/AFT Local 9212
William E. Crawford, UAW/AFT Local 8212
Albertha Hall
Charles Montgomery
Marty Montgomery, PERF Pension Administration Supervisor
Karen Vise, PERF Pension Administration Supervisor
Michael Quigley, PERF Program Director, Pension Administration
E. William Butler, PERF Executive Director
Mark Webb, PERF Deputy Director & General Counsel
Patrick Lane, PERF Executive Assistant
R. Thomas Parker, Director, 1977 Police & Fire Fund
William Hutchinson, PERF Division Director, Pension Administration
Linda Stahl, Recording Secretary

ITEMS MAILED TO THE BOARD PRIOR TO MEETING

A. Agenda of August 30 & 31, 1999 Meeting
B. Minutes:
   - May 20, 1999 Board of Trustees Meeting
   - May 20, 1999 Investment Committee Meeting
   - June 10, 1999 Investment Committee Meeting
   - July 23, 1999 Investment Committee Meeting
   - July 15, 1999 Benefits Administration Committee Meeting
C. Statements of Retired and Disabled Members – PERF, Judges, Conservation & Excise, and Police & Fire
D. Reports, Summaries, Memorandums and/or Letters Concerning:
   - Member Statement of Account
   - Investment Policy Revisions
   - Legislative Changes Informational Letter
   - Pension Management Oversight Commission Issues
   - City of Connersville
   - Pending Litigation
   - Police & Fire Pension Secretaries Seminar
   - Americans With Disabilities Act Rules Amendment
   - Quarterly Financial Statement
   - Year 2000 Update

A quorum being present, Chair Doermer called the meeting to order.

1. MINUTES APPROVAL

**MOTION** duly made and carried to approve the Minutes of the May 20 & 21, 1999 meeting.

*Proposed by:* *Teresa Ghilarducci*
*Seconded by:* *Jonathan Birge*
*Votes:* *5 for, 0 against, 0 abstentions*

2. BOARD DISCLOSURES

| | | |
|---|---|---|
| Jonathan Birge | - | FirstTrust Indiana (Stock ownership) |
| Richard Doermer | - | Banc One Corporation and its affiliates (Stock ownership) |

3. BOARD RECOGNITIONS

The Board recognized Marriette “Marty” Montgomery for 35 years of outstanding service to the Public Employees’ Retirement Fund and the State of Indiana. Mrs. Montgomery began her career with PERF in 1964 as a keypunch operator. Following several promotions she now serves as a Team Leader in the Pension Administration Division, supervising retirement counselors responsible for approximately one-third of the entire membership of the Fund, including it’s largest employer, the State of Indiana.

The Board also recognized Douglas M. Kinser for his many years of advice, assistance and friendship to PERF. Mr. Kinser has served as Executive Assistant in Finance to Governor Frank L. O'Bannon since 1997 and, as such, was the Fund's chief liaison with the Governor and one of its strongest supporters. During his service with the Indiana General Assembly as a State Representative from District 54 from 1988 through 1995, Mr. Kinser served as Chairman of the Pension Management Oversight Commission as well as Chairman of the Committee on Financial Institutions. After leaving the General Assembly, Mr. Kinser served as Executive Director of the Indiana Retired Teachers' Association. Having obtained his *Juris Doctor* in 1996, Mr. Kinser has now accepted a position in private practice of law.

4. POLICE & FIRE

Tom Parker reported that the annual seminar for police and fire pension secretaries will be conducted on October 20 in the Indiana Government Center South Auditorium. The preliminary agenda for that seminar includes discussion of recent legislative changes, as well as a review for new secretaries of the application processes used in the 1977 Fund.

5. QUARTERLY FINANCIAL STATEMENT

A second quarter financial statement of all PERF administrative expenses was distributed for Board review (copy on file).

6. INVESTMENTS

Investment Committee Report

The Investment Committee briefly summarized discussions undertaken at its meetings on May 20, June 10, and July 23 as follows:

A. Duration Rebalancing

Both Fixed Income funds have slipped out of compliance with the duration for the index. Committee consensus was that the funds should be brought back in line as opportunities present themselves --- there will be no major transactional changes in order to bring the funds back into conformity with the duration. Once permanent managers have been selected, the issue can then be resolved.

B. Conseco Issue

The prohibition against any money manager holding issues with a custodian bank was repealed on July 1, 1999. However, as of March 31, Conseco's portfolio contained notes of National City Bank, placing them technically in violation of the law. Conseco was directed to divest the portfolio of the National City notes and reimburse PERF for any difference between the purchase price and the sale price.

C. Source of Equity Funding

The “Reallocation Account” previously used for funding investments was depleted in July. Therefore, given the merger of Bank One/NBD, Committee directed that the NBD account be used as the next source of funding until such time that that account is depleted.

<u>Fixed Income Manager Search</u>

The Fixed Income Broad Agency Announcement (“BAA”) produced a total of 73 responses. Those were grouped in manageable portions --- by passive or index strategy, ownership structure, and “all others”. All 13 of PERF’s current fixed income managers responded; however, one withdrew due to the dissolution of the firm (Danson & Neuhar). Mercer has begun looking at each of the organizations with respect to their proposed strategies, their investment results, and their rate of return results compared to the benchmarks. Mercer and the Investment Committee hope to be able to make recommendations for full Board consideration/approval by it’s next meeting in December.

With respect to the Investment Committee:

**MOTION** duly made and carried to authorize the Board Chair to make Investment Committee appointments without an organized meeting of the full Board of Trustees.

| | |
|---|---|
| *Proposed by:* | *Nancy Turner* |
| *Seconded by:* | *Steve Miller* |
| *Votes:* | *5 for, 0 against, 0 abstentions* |

**MOTION** duly made and carried to authorize the Investment Committee to make money manager recommendations to the full Board for consideration/approval.

| | |
|---|---|
| *Proposed by:* | *Jonathan Birge* |
| *Seconded by:* | *Nancy Turner* |
| *Votes:* | *5 for, 0 against, 0 abstentions* |

<u>Investment Policy Revisions</u>

A draft of proposed changes to the investment policy originally adopted on September 12, 1997 were distributed for Board review (copy on file). It was noted that designing and setting investment guidelines is one of the most difficult and important things to do when you’re putting together a management structure of a fund. Essentially, what PERF has been doing over the past two years (since the passage of the equities referendum) is rebuilding the Fund’s investment program. The Board is trying to do that one step at a time and in a very logical and controlled fashion. As an example, with the current fixed income manager search, index and core managers are being considered who would theoretically have the same guidelines. However, the question is now being visited as to whether those managers should, in fact, have the same guidelines. Following full review and discussion of the proposed changes,

**MOTION** duly made and carried to adopt the amended investment policy language as proposed:

*Proposed by:* *Steve Miller*
*Seconded by:* *Nancy Turner*
*Votes:* *4 for, 0 against, 0 abstentions (Jon Birge absent for vote)*

With respect to Section 15 of the Investment Policy:

**MOTION** duly made and carried to adopt wording as follows:

**SECTION 15. POLICY WITH RESPECT TO ALTERNATIVE INVESTMENT**

The Board shall investigate alternative investment vehicles. Alternative investment vehicles may include but are not limited to venture capital, real estate and private placement. Some may improve the Indiana regional economy. The Board may consider investing in these assets if and only if the vehicles meet all standards for prudent investments. These investments must satisfy all standards of diligence, skill, and risk adjusted market return that apply to other pension investments.

*Proposed by:* *Teresa Ghilarducci*
*Seconded by:* *Steven Miller*
*Votes:* *5 for, 0 against, 0 abstentions*

Securities Lending

Stacy Scapino, representing Wm. M. Mercer, was present to discuss PERF's securities lending program. It was noted that the Fund's current securities lending arrangements need to be reviewed to determine whether they are efficient and appropriate, to assess the current providers' performance, and to identify issues and points for action, both immediate and long-term. With that goal in mind, Mercer has reviewed custody and securities lending contracts as well as securities lending policies. They have assessed information and transaction flows, interviewed securities lending providers, and collected performance information versus market standards from each provider. What needs to be done further is to develop profiles of each institution's lending philosophy, sources of return and risk, and strengths and weaknesses. Specific risk control points and mechanisms for control will have to be identified as well as background issues with which PERF might have long-term concerns. Additionally, a written report will be drafted that would include recommendations. It is Mercer's goal to have such a report prepared and recommendations issued by late September 1999. Those recommendations would then be discussed at the next Board meeting.

Performance Analysis

Kris Ford, Wm. M. Mercer, prefaced her performance analysis report (copy on file) by noting that the PERF portfolio is in a state of transformation and will reflect change going forward. She briefly summarized the market environment in the second quarter by simply noting that the economy was great --- the bond market was not. The stock market was great, and small stocks outperformed large stocks for the first time in a while. Short, in terms of maturity or duration, outperformed long in the fixed income portfolios.

With respect to the consolidated retirement investment fund ("CRIF") asset allocation, equities continued to comprise a larger portion of the assets. The Barclays "Near-LBA" fund has been fully liquidated. Total CRIF assets rose by $250 Million during the quarter due to capital appreciation within the equity segment. Small cap equities have not yet been fully funded with international equity funding pending. Fixed income and large cap equity were overweighted relative to the target. Due to the low equity allocation versus Target, the CRIF underperformed the Target Composite Universe median and Target Reference Index. Performance versus the Actual Composite Benchmarks were competitive. Most bond managers had a rough quarter due to rising interest rates. Factors that hurt performance included a long duration posture, high corporate bond exposure, and low mortgage-backed securities exposure. Those managers with a conservative sector allocation and/or short duration posture performed well.

Looking at investments, the styles and market capitalization of the equity managers were consistent with their stated objectives. They generally had modestly higher returns, with marginally higher volatility, than their benchmarks. The risk-adjusted performance for the CRIF fixed income portfolios were mixed, with most managers underperforming. In summary, equities performed well during the quarter with bonds lagging.

Investment Compliance Report

Richard Boggs, Burnley Associates, presented the Board with his compliance report (copy on file). That report covers all non-performance related areas where the Board is bound by their own investment policy statement to exercise oversight.

An overview of the second quarter indicated that steady progress continued to be made to achieve the long-term goals of the Fund. With monies being shifted from bonds to stocks at the rate of $120 Million per month, the allocations on 6-30-99 were Large Cap Domestic Equities 39%, Small Cap Domestic Equities 7%, and Domestic Bonds 54%.

All investment managers appeared to be following the investment styles for which they were hired. The securities lending efficiency and income generation appeared to be similar to the results obtained during 1998. Such income to PERF offsets approximately 25% of investment management and custody fees. No significant violations of those guidelines were detected.

Trading and brokerage commissions averaged 3 cents per share. The S&P Index trades were at 1.5 cents, the Large Cap Enhanced Indexers traded at 3-4 cents, and the Small Cap managers traded at 5-6 cents. These ranges are within the acceptable ranges for large institutional portfolios.

Finally, the procedure by which the custodian bank forwards proxies to the investment managers to be voted was established mid-May and appeared to be working satisfactorily.

7. RECESS

With no further business, the Board recessed to reconvene at 8:30 a.m. on August 31.

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TRUSTEES PRESENT

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Jonathan Birge

OTHERS PRESENT

Diana Hamilton, Special Liaison to the Governor for Public Finance
Mary Beth Braitman, Ice Miller Donadio & Ryan
Kris Ford, Wm. M. Mercer Investment Consulting
Pete Keliuotis, Wm. M. Mercer Investment Consulting
Louis Finney, Wm. M. Mercer Investment Consulting
Chris Levell, Wm. M. Mercer Investment Consulting
Richard Boggs, Burnley Associates
Doug Todd, McCready & Keene, Inc.
Kathy Norris, Budget Agency
Matt Brase, Indiana Association of Cities & Towns
Jodie Woods, Indiana Association of Cities & Towns
Sue Borrows, Complete Business Solutions, Inc. ("CBSI")
Jeff Adair, Complete Business Solutions, Inc. ("CBSI")
Chris Fikes, Complete Business Solutions, Inc. ("CBSI")
Colleen Williamson, UAW/AFT Local 9212
Kenneth Berg, UAW/AFT Local 9212
William E. Crawford, UAW/AFT Local 8212
Mike Bindner, Locke Reynolds
Bob Pruitt, McCray Memorial Hospital
E. William Butler, PERF Executive Director
Mark Webb, PERF Deputy Director & General Counsel
Patrick Lane, PERF Executive Assistant
Diann Clift, PERF MIS Director
William Hutchinson, PERF Division Director, Pension Administration
Linda Stahl, Recording Secretary

1. <u>CLARETY PROJECT</u>

   Sue Burrows, Jeff Adair, and Chris Fikes were present representing Complete Business Solutions, Inc. ("CBSI") and presented the Board with a visual demonstration of the new information technology system.

2. <u>ASSET LIABILITY MODELING STUDY</u>

   In 1996 Mercer completed an asset liability modeling study in preparation for the move to equities. It now becomes necessary to refresh that data looking at the liabilities and how they have changed and to be more specific about the groups included in PERF. The primary function for such a study is to adjust investment policies and activities with the looming pension liabilities that lie ahead so that the Board can do a more efficient job of investing assets in light of what is calculated as liabilities for each year in the future. A report on such a study was distributed for Board review (copy on file).

   Given that explanation, Kris Ford noted that the major objective of the 1996 study was to look at the impact of equity investing on contributions and funded status and at what level the Board was comfortable going into equities. Since that point in time, there has been a revolution in the research and technology used in management studies. Proposed goals for a new study would be to review and define asset classes and assumptions; review and define liability groups and assumptions; and determine Fund management objectives on contributions, funded status, etc.

   Louis Finney noted that there are three different types of risk a pension plan needs to balance --- asset risks, liability risks, and taxpayer risks. Looking at asset risks, in general there are two broad asset classes --- equities and bonds. The return on equities is determined by economic growth, interest rates, small cap versus large cap stocks, and value versus growth stocks. The value of bonds is affected by interest rates, default risk, and cash flow volatility. Turning to liability risks, the main factors that determine the liabilities are wage and salary growth, demographic workforce patterns, and interest rates. Thus, one of the key factors driving both the assets and the liabilities is interest rates. If all things are equal on the asset and liability side, an allocation should be chosen which is most beneficial to the taxpayer. One thing to be considered is whether to explicitly model the taxpayer/employer risk to minimize the probability that the employers get hit with large contributions just when economic growth declines.

   Chris Levell added that of the various plans administered by the Public Employees' Fund, PERF was the only one used in the 1996 study. It is Mercer's position that the 1977 Police & Fire Fund should also be reviewed. It is the second largest of the PERF-administered funds with mostly active employees with similar demographics. As you get extreme differences in the active/inactive mix, it can translate into a different asset allocation. Therefore, because these two funds are so different and the two largest, the study should be broadened to include both PERF and Police & Fire to see if it would make sense to have different allocations. The value of looking at judges', legislators', excise police & conservation enforcement officers', and prosecuting attorneys' retirement plans would be dwarfed by any of the decisions made for PERF or Police & Fire. The PERF allocation could be used for those four funds. The Pension Relief Fund has a significant funding deficiency, and it would be Mercer's recommendation that an investment profile review be conducted for that fund rather than an Asset Modeling

Management Study. Looking additionally at the annuity savings accounts, the self-directed accounts are Defined Contribution while the Guaranteed Fund has Defined Benefit characteristics. Therefore, Mercer would recommend the inclusion of the Guaranteed Fund in this study because it is part and parcel with an investment allocation decision. The ability to guarantee an amount depends on how you're investing.

Following some further discussion, Board consensus was that PERF, the 1977 Police & Fire Fund, the Pension Relief Fund, and the Guaranteed Annuity Savings Account (as a Defined Benefit) should be analyzed. Additionally, the asset classes to be considered for purposes of this study are domestic equity, international equity, fixed income (market bonds, long bonds, inflation-indexed bonds, and real estate), and alternative investments. Those asset classes will be discussed at great length at the Board's educational session scheduled for October 22 & 23 in Chicago.

3. BENEFITS

Benefits Administration Committee Report

The Benefits Administration Committee briefly summarized discussions undertaken at it's meeting on July 15 as follows:

A. Harrison Building Reconstruction

The 5$^{th}$ floor administrative offices have now been completed. Staff is moving forward with the 6th, 7th, and 8$^{th}$ floors. However, an issue has arisen that concerns ventilation of the wall units and an open office system as previously proposed. Those plans are now being revisited with the space planner, and it is hoped that new plans can be finalized in the next two weeks. Once that is done, demolition will begin on the currently vacant 6$^{th}$ floor. It is anticipated the building times for each of those floors will be somewhere in the neighborhood of 3-5 weeks each.

B. Fire Suppression System

The new fire suppression system has been installed. Activation will take place following an orientation session scheduled for the later part of the week of August 30.

C. Benefits Administration Committee Policy Statement

Other state public employee retirement funds were contacted to request copies of their benefits and administration policies and procedures. Responses have now been received from approximately 24 retirement systems. Bill Hutchinson is preparing a summary for presentation to the Benefits Administration Committee at it's next meeting.

D. Employer Contribution Rate Draft Guidelines

The Committee was requested by the Board of Trustees at their May 21 meeting to draft a set of guidelines with respect to the "smoothing process" used to establish employer contribution rates. Following Benefits Administration Committee discussion, it was determined that the matter should be referred to the Fund's actuary. Mark Webb has discussed the issue with the actuary, and they have prepared draft proposals for presentation to the Benefits Administration Committee at it's next meeting.

Member Statement of Account

The Member Statement of Account was revised to include an explanation all fund options available to members. Language was also added denoting that the Statement reflects only one portion of the retirement benefit under PERF (the Annuity Savings Account) and that a separate portion (the defined benefit representing a significantly larger portion of the retirement benefit) is comprised of a separate contribution made by the employer. It was noted as well that in many cases an individual will also receive a Social Security benefit. A copy of the booklet "Estimating Your Retirement Benefit" was included with the Statement mailing to provide the member with the ability to estimate their defined benefit in addition to the annuity savings account. It is hoped that an accrued benefit statement will be a reality within the timeframe of the implementation of the new information technology system. Also incorporated into the second quarter mailing was a statement of the member's years of creditable service. Henceforth, that information will be distributed on an annual basis with the June Member Statement of Account.

Next Meeting

The next meeting of the Benefits Administration Committee was scheduled for September 22 at 10:00 a.m.

4. ACTUARIAL

State Employees' Death Benefit Fund

PERF was recently contacted by the Budget Agency and requested to do an analysis on the State Employees' Special Death Benefit Fund, a fund established in 1989 by the General Assembly. Initially, this plan was somewhat randomly funded, and in 1992, following the death of a State employee, there were insufficient funds to pay a benefit. Thus, the Board, working with their actuary, agreed upon a specific measure of funding wherein one tenth of one percent of each employer's total payroll would be diverted to the Auditor's Office for payment of these benefits. That funding was to continue until such time as it totaled $1 Million, and it would then be suspended until the balance dropped below $500,000. At that time the funding would resume until such time as it again reached $1 Million. For whatever reason, there has been no oversight of that fund so that there is now a balance in the account in excess of $5 Million. Thus, the Budget Agency has requested that the Board issue an order directing PERF to notify the State Auditor's Office to stop contributions to the Fund. In accordance with that request, PERF's actuary has reviewed the Fund and determined it as actuarially sound and with no need for further contributions at this time. Therefore,

**MOTION** duly made and carried to authorize the PERF staff to contact the Auditor's Office and to suspend further contributions to the State Employees' Special Death Benefit Fund.

*Proposed by:* *Jonathan Birge*
*Seconded by:* *Nancy Turner*
*Votes:* *4 for, 0 against, 0 abstentions (Teresa Ghilarducci absent for vote)*

5. LEGAL

McCray Memorial Hospital

McCray Memorial Hospital has been a participating employer in PERF for a number of years. In 1996 McCray experienced some financial difficulties and became delinquent on employee and employer contributions to PERF. They have since brought the employee contributions current, and they remain current. The employer contributions, however, are not current. McCray filed a formal Notice of Withdrawal from PERF more than two years ago, effective June 30, 1999. Statute provides for a number of events to occur in order for a withdrawal to become effective and gives the Board the discretion of rejecting the withdrawal if there is an underfunded status. In terms of fulfilling the statutory requirements for a withdrawal, McCray would appear to have fulfilled all of those. There is, however, a current balance due in employer contributions of about $1.8 Million.

In 1997 McCray realized they were in trouble and requested that prior PERF assessments be forgiven and their rate be reduced. As part of those discussions, it was understood that there were governing statutes which would have allowed McCray to seek assistance from Noble County and the City of Kendallville. The County would have been obligated to access an additional levy to be set aside as a hospital aid tax. In addition, it appears that the City of Kendallville could have imposed some sort of a city tax on an annual basis. However, McCray was not inclined to seek such assistance. Thus, McCray requested an adjustment be made.

Bob Pruitt, Vice President for Human Resources, and Mike Bindner with the Locke Reynolds law firm were present at today's meeting representing McCray Memorial Hospital. Locke Reynolds was hired to assist McCray's regular counsel in this matter. Mr. Bindner noted that McCray has been generating operating losses since 1994, somewhat as the result of their attempt to get into the home health agency business. Two years ago they started exploring options, including a partnering deal with Parkview Hospital. Parkview is one of the two major health care providers in the Fort Wayne area and has purchased some other hospitals in the last couple of years. A signing of the closing agreement on that transaction is imminent. McCray does not have the money to pay the $1.8 Million employer contributions and Parkview has refused to do so. McCray is now in a situation where the Hospital is insolvent and will be selling out to a non-PERF entity. They are, therefore, again requesting that those prior contributions be waived, especially in light of the fact that PERF's actuary has now given PERF an opinion that McCray's estimated value of obligations is $2.6 Million and the fair market value of assets in the Fund are $9.5 Million.

Mary Beth Braitman noted that there are three issues for consideration with respect to a withdrawal. The Board could not accept the withdrawal, accept the withdrawal without any inference as to the past-due amounts, or elect to defer action. With respect to the past due amount, there are a number of options. One would be to give no consideration to any kind of relief or authorize pursuit with the City of Kendallville, Noble County, the State Board of Accounts, and anyone else who has a stake in the matter in any way to see if a settlement could be effectuated. With respect to issue three, a final statement can be made that there will be no refund issued with respect to the "excess" assets.

Following some further discussion, the Board authorized Mary Beth Braitman, William Butler, and Mark Webb to research further all the issues involved with this matter and to report their recommendations back to the Board as quickly as possible.

<u>Legislative Changes Information Letter</u>

House Enrolled Act 1093 brought several changes to PERF and the 1977 Police & Fire Fund. Therefore, PERF staff has prepared two letters to disseminate these changes to the applicable parties. One letter is directed to PERF employers and addresses the changes of primary importance to them. A second letter is directed to PERF employees and addresses issues affecting them. Henceforth, it is anticipated that letters of this nature will be generated and mailed following each legislative session.

<u>City of Connersville</u>

The City of Connersville joined PERF in 1989 and provided coverage for their members of the Utilities Division. They did not purchase prior service for these employees at that time because they could not afford to do so. The current members of the Utilities Service Board of Connersville, the governing body, have now agreed to purchase the prior service. In the past, PERF has not allowed a participating unit to purchase prior service after the unit entered the Fund due to potential unfairness such a situation could cause with respect to members who have since retired or otherwise separated from service in the interim. The applicable law has been reviewed, and while there is no specific authority granted for the purchase of prior service in such instances, there is no direct prohibition against it. Indiana law does, however, make it clear that the Board of Trustees of PERF has the duty to approve new units for entry into the Fund and enlargements of existing units. Inherent in that authority is the power to approve retroactive coverage, provided that all other requirements of federal and state regulations are met.

A committee consisting of the General Counsel, the Director of Benefits Administration, the Program Director and the Fund's outside tax and benefits counsel met with representatives from Connersville Utilities. They have concluded that it is appropriate for the unit to grant prior coverage to its employees who were covered under the original 1989 Resolution providing that Connersville pays the full cost to do so. In order to protect the Fund from criticism and scrutiny with respect to anti-discrimination provisions of the Internal Revenue Code, the Committee and the Utility have agreed that those individuals who were included in the original resolution and who have since retired will have their retirements recalculated based on this additional service. Cost figures from McCready & Keene have been discussed with Connersville.

It is now the understanding of the Committee that Connersville will have a meeting on August 23 pursuant to the Indiana Open Door Law and will then submit to PERF the Minutes of approval for this retroactive coverage. With the approval of the PERF Board of Trustees, staff will prepare a Resolution taking into account the cost figures and also the fact that there will be a rate increase that will be carried forth for somewhere around the next 40 years.

Following discussion, Board consensus was to allow the City of Connersville to purchase past service as so outlined by PERF staff.

Pending Litigation

Recently, two longstanding Americans with Disabilities Act cases filed against PERF and the 1977 Fund have been resolved. Both cases involved potential firefighters who were unable to meet the baseline standards established by the Board in 1993. Those cases were concluded in the Federal District Court with judgment on all counts entered in favor of PERF.

Other issues of pending litigation initiated against PERF involve the Conservation & Excise Police Officers' Retirement Plan in which the plaintiffs are a class of retired conservation officers who are challenging PERF's interpretation of the statutory benefits. That interpretation has been applied since the Plan was enacted in 1971, so PERF is defending on that basis. In this case, there is no genuine issue of material fact, and the case will be decided on the fact of law.

Two other cases involve potential employees of the Franklin Fire Department and the Evansville Fire Department. In the case of the Franklin Fire Department, the individual alleges that the Department and PERF violated the Americans with Disabilities Act when his initial offer of employment was revoked after his physical exam revealed that he was blind in one eye. The case with the Evansville Fire Department involves two individuals whose conditional offers of employment were revoked because they did not pass the psychological exams.

Additionally, a case has been filed in the County Court in Jeffersonville wherein an individual over the age of 35 has filed suit based upon his denial for entry into the 1977 Fund.

Other issues concern administrative cases. Generally speaking, when an applicant has a grievance with PERF, in most case the dispute must be resolved through administrative remedies. In other words, they have to take the matter through a full review and appeal process with the agency before they can go into court. There are now three such pending matters for which PERF is awaiting hearing dates. One is an individual who earned more than 10 years of creditable service at various positions with PERF, but he did that all within the span of 8 years and 2 months. Pursuant to statute, no more than one year of creditable service is given in any 12-month period. This individual has alleged that PERF has been unreasonable in refusing a retirement benefit based on that fact. Two other issues concern appeals of police and fire disability denials.

Pension Management Oversight Commission

It has become clear that a number of major things need to transpire to make PERF what it should be. The best way to do that is to go back down to the building blocks and start from there. Accordingly, discussion has been undertaken with respect to the manner in which change could be initiated to accomplish the fundamental goals of providing freedom from the State budget process as it currently exists, freedom to hire and compensate people as the Board deems appropriate and suitable, and freedom from the State procurement process. Thus, draft legislation has been prepared for presentation to the Pension Management Oversight Commission at their next meeting. It seems to be general policy of the Chairman of that Commission that what is good for PERF is also good for TRF. Therefore, this draft incorporates both funds. The 1977 Advisory Committee who has long raised questions on such matters as the validity of PERF data, the appropriateness of the level of services offered, and turnaround times on disability/retirement/membership applications, will be the primary players in this matter. They have, in fact, passed a recommendation that they intend to pursue this legislation in order to secure passage in the next upcoming session of the General Assembly.

Other PMOC issues concern the Private Letter Ruling request on taxation for line-of-duty death and disability benefits for the Police & Fire Fund. It looks like a more favorable result will be received than received in the past with respect to taxation of those benefits. In addition, very detailed discussions have been undertaken with the IRS to identify what it would take to modify the statute to get even more favorable treatment. So one of the other things with which PMOC will be approached is to go ahead and make the necessary statutory changes to secure the best possible Federal and State income tax treatment for line-of-duty death and disability benefits for the police and firefighters. Additionally, another issue to be presented to PMOC concerns looking at the State income tax treatment of PERF and TRF retirees. Indiana is one of a minority of states that grant no income tax exemption on those benefits.

Americans With Disabilities Act

A subcommittee of the 1977 Police & Fire Advisory Committee met on August 4. In the course of that meeting it was decided that the subcommittee would recommend to the Advisory Committee that the language pertaining to reasonable accommodation under the Americans with Disabilities Act be removed from the Indiana Administrative Code. If the rules are amended, an applicant who has a disqualifying condition would be denied membership in the 1977 Fund and, thus, eligibility for hire by the local unit. The local appointing authority (i.e., mayor, chief) would no longer have the authority to file a reasonable accommodation certification so that the applicant could be approved for membership in the 1977 Fund. The applicant would have the right to appeal the Fund's denial.

Real Estate Title Transfer

Concern has previously been raised concerning the manner in which title to PERF real estate has been held. Therefore,

**MOTION** duly made and carried to transfer title of all PERF real estate from the Board of Trustees to a limited liability company. The Board authorizes PERF staff to get those things in place to make such a transfer.

*Proposed by:* *Steve Miller*
*Seconded by:* *Teresa Ghilarducci*
*Votes:* *4 for, 0 against, 0 abstentions (Jonathan Birge absent for vote)*

6. ADMINISTRATIVE

Year 2000 Update

Diann Clift reported that currently the most important thing with respect to the Year 2000 issue is contingency planning. Plans are currently being drafted for benefits administration and accounting, and Diann is negotiating recovery status with the Department of Information Technology which would allow PERF to receive recovery on the mainframe system. The Department will have staff on hand both New Year's Eve and New Year's Day to ensure that things are up and running and to resolve any issues which might arise.

With respect to facilities, there has been a securities issue with the Harrison Building. The building manager is currently working with Honeywell to get that resolved --- no problems are anticipated in rectifying the problem. A report is pending on the 125 West Market Street Building.

Building Update

Looking at the Harrison Building, the Indiana State Teachers' Association ("ISTA") has now reached an agreement with Revel & Underwood to relocate the ISTA claims division to the second floor. They will occupy the entire space of 5,033 square feet for five years effective September 15, 1999.

The Governor's Planning Council, a current 4$^{th}$ floor tenant, will be expanding into another nearly 800 square feet. That will leave approximately 1,700 square feet in the Harrison Building unoccupied, and it is anticipated that PERF will eventually absorb that additional footage.

Total and Net Operating Incomes were significantly worse than budgeted due to a lag in receipt of insurance recovery of rent abatement for the Department of Revenue and the expansion of PERF into additional space thereby creating a bulk of unused office space for the period of reconstruction.

With respect to the 125 West Market Street property, the Data Processing Oversight Commission (the only tenant) was two months in arrears on rent payments totaling $31,013.22. Revel & Underwood has been working with the State, and the matter is now resolved with payment of those rents.

7. NEXT MEETING

The next meeting of the Board, previously scheduled, will be conducted on December 9 & 10, 1999.

8. ADJOURNMENT

There being no further business, the meeting was adjourned.